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Attorney for Defendant
DAVID GASTELUM

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DAVID GASTELUM,

Defendant.

Case No. CR-3:15-00018-WHO-3

**STIPULATION AND ~~PROPOSED~~
ORDER CONTINUING SENTENCING
HEARING**

Court: Hon. William H. Orrick

Date: December 3, 2015

Time: 1:30P.M.

Defendants David Gastelum and Erick Rodriguez-Vega, and the United States, by their respective attorneys, jointly request and stipulate pursuant to Criminal Local Rule 32-2 that this Court vacate the sentencing hearing scheduled for December 3, 2015 at 1:30 p.m. and continue the hearing to January 14, 2016 at 1:30 p.m. United States Probation Officer Emily Libby agrees with this stipulation.

On August 13, 2015, defendants Gastelum and Rodriguez-Vega plead guilty to charges alleged in the Superseding Indictment. That same day, this Court scheduled sentencing to take place on December 3, 2015 at 1:30 p.m.

The parties are seeking a continuance so counsel for defendant Gastelum can complete the second phase of a capital habeas *Atkins v. Virginia*, 536 U.S. 304 (2002) intellectual

1 disability evidentiary hearing. In re Noel Jackson, Riverside Superior Court Case No. RIC-
2 475367. The first phase of the evidentiary hearing began on September 28, 2015 and ended on
3 October 8, 2015. The second phase of the evidentiary hearing is scheduled to begin on
4 December 1, 2015 and conclude on December 9, 2015. The week of December 1, 2015 was the
5 only time period where the Court, the prosecutors and the expert witnesses were available.

6 WHEREAS the parties wish to continue defendants' sentencing date to January 14,
7 2015;

8 WHEREAS the parties, their counsel, and the U.S. Probation Officer assigned to this
9 action are each agreeable to and available for a sentencing hearing on January 14, 2016;

10 WHEREAS the parties have conferred with the Courtroom Deputy Clerk and confirmed
11 that January 14, 2016 is available on this Court's calendar.

12 THEREFORE, the parties hereby stipulate and agree, with the Court's approval, to
13 continue the sentencing date scheduled for December 3, 2015, to January 14, 2016 at 1:30 p.m.

14 Respectfully submitted,

15 */s/ Frank Riebli*

16 DATED: October 23, 2015

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Frank Riebli
Assistant United States Attorney

18 */s/ James Thomson*

19 DATED: October 23, 2015

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James S. Thomson
Attorney for Defendant David Gastelum

21 */s/ Jai Gohel*

22 DATED: October 23, 2015

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Jai Gohel
Attorney for Defendant Erick Rodriguez-Vega

ORDER

GOOD CAUSE APPEARING, IT IS HEREBY ORDERED that the sentencing hearing scheduled for defendants, David Gastelum and Erick Rodriguez-Vega, on December 3, 2015 at 1:30 p.m. is CONTINUED to January 14, 2016 at 1:30 p.m.

DATED: October 26, 2015


HONORABLE WILLIAM H. ORRICK
United States District Judge